

EN BANC

[G.R. No. 120281, July 08, 1998]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. OSCAR ESCALA, ACCUSED-APPELLANT.

D E C I S I O N

PER CURIAM:

Wilma Escala, the complainant in the instant case, has accused her own father, herein appellant Oscar Escala, of the crime of rape. Wilma, only fourteen years of age at the time, is the eldest of two sisters and six brothers.

Wilma narrated that the family lived under the same roof in a barong-barong (shanty) located at the squatters area along Sampaguita Street, Tacloban City. The entire family slept in a 4 x 5-meter room sharing a single mat, one mosquito net and a blanket. She recalled being only twelve (12) years old and a Grade VI pupil when she underwent the first ordeal perpetrated on her virtue by her own father. That incident was followed at intervals of three to four times a week, usually taking place at night just before her father would go to bed. There were times when the rape would occur during daytime while her mother was not around. Each time that her father would force himself upon her, she would be threatened by him with either a knife or a nightstick.^[1]

Wilma suffered her great cross in silence until the first night she slept with her common-law husband, Enrique Batis, to whom she confided previous sexual encounters she was forced to undergo when Enrique discovered that she had by then already lost her virginity. She divulged to him the repeated assaults by her father on her honor. Enrique encouraged Wilma to have her father brought to justice. But what finally made her decide to file a case against her father was when she learned that her thirteen-year old sister, Alma, was also then being ravished by their father.^[2] It was, so to speak, to be the last straw.

Oscar Escala was indicated for rape in an information (amended) filed before the Regional Trial Court of Tacloban City, Branch 7, thus:

"That on or about July 1994, in the City of Tacloban, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation did, then and there wilfully, unlawfully and feloniously have carnal knowledge with WILMA ESCALA, his 14 year old daughter, against her consent.

"CONTRARY TO LAW."^[3]

Upon his arraignment, the accused pleaded "not guilty" to the charge.

The defense interposed denial. Accused Oscar Escala stated that on 31 July 1994, the date, according to Wilma, that she was raped by her father and for which he was formerly indicted, he watched, together with Wilma and the other children, a television show in their neighbor's house which lasted up to 10:30 in the evening. He denied having slept that night beside her daughter. The accused insisted that the charge against him was orchestrated by Wilma's common-law husband, Enrique Batis, whom he had threatened to charge with the crime of kidnapping with rape. The rape charge against him, he asserted, was just a leverage to get him to forego his threats against Enrique.^[4]

The court a quo, Hon. Judge Pedro Espina presiding, rendered its judgment on 22 February 1995 following the trial. Evidently not convinced of the defense put up by the accused, the court pronounced him guilty beyond reasonable doubt of the offense charged. The decision concluded:

"WHEREFORE, this Court without any reservation sentences the accused OSCAR ESCALA to the penalty of DEATH, without pronouncement on moral damages no claim having been presented on the matter.

"Let the accused be transferred to the National Penitentiary at Muntinlupa, Rizal.

"SO ORDERED."^[5]

The death penalty having been imposed on Oscar Escala, his conviction is now up for automatic review by the Court.

In his brief, accused-appellant came up with the following assignment of errors:

"1. The Court a quo erred in giving evidentiary weight to the testimony of the complainant, which is highly incredible and unreliable, and in disregarding the evidence adduced by the accused-appellant.

"2. The Court a quo gravely erred in convicting accused-appellant Oscar Escala of the crime of rape despite failure of the prosecution to prove his guilt beyond reasonable doubt."^[6]

It does appear that the main issue raised by appellant is the credibility of Wilma Escala. Appellant claims that between the accusation made against him and his protestation of innocence, it is the latter, not the former, that deserves credence.

The Court realizes that, like in all rape cases, the testimony of the complainant must be examined with extreme care for, whether the case results in conviction or in acquittal, the final outcome would almost invariably be dependent on what the victim declares and on how she has stood and comported herself at the witness stand during questioning. While much is left to the trial court in making the proper assessment on the manner which a witness testifies, the declaration made at the trial, nevertheless, are preserved in transcripts of stenographic notes that in good measure can make meaningful and help render accurate the review process. The Court finds it necessary to go through the following account of the complainant's testimony, thus:

Q

Do you remember having filed a complaint for

Rape against Oscar Escala, your father?

A

Yes, ma'am.

Q

"I am showing to you a complaint for Rape dated October 6, 1994, will you please identify whether this is the complaint you said you filed against your father?

A

Yes, this is the one.

Q

Over typewritten name Wilma Escala is a signature in the lower right hand portion of this complaint, will you please identify whose signature is this?

A

This is my signature.

**"FISCAL
REYES:**

For purpose of identification your Honor we request that this complaint be marked as Exh. A and signature of Wilma Escala be encircled and be marked as Exh. A-1.

"COURT:

Mark it

**"FISCAL
REYES:**

Q

You stated in this complaint that you were raped by your father, do you remember when was that?

A

That was when I was still in Grade VI.

Q

How old were you when you were in Grade VI?

A

Twelve years old

Q

Why do you say that you were raped?

A

He undressed me and he pointed a scythe at me.

Q

After he undressed you, what did he do?

A

He inserted his penis inside my vagina.

Q

How did you feel when he inserted his penis inside your vagina?

A

At first I felt pain but later on there was no pain anymore.

Q

Is your mother still living?

A

Yes.

Q

Where was she residing at the time you said you were raped by your father?

A

She was living in our house.

Q

Was she present when you were raped?

A

She was asleep

Q

"Did you not tell your mother about what was done to you by your father?

A I did not tell my mother what was done to me by my father because he threatened to kill me if I would tell my mother.

"FISCAL REYES:

Q Was that the only time that you were raped by your father when you were still 12 years old?

A He started raping me when I was still 12 years old until last July 1994.

"Q From the time you were 12 years old up to July, 1994, do you remember how many times you were raped by your father?

A I can not recall anymore because I have been raped so many times.

"COURT:

Q She was raped when she was Grave VI and at that time she was 12 years old. When you say that you were raped so many times after that first rape it was followed by other several incidents of rape?

A Yes, your Honor.

Q But you can not remember the dates?

A I can not remember anymore the dates.

Q After the first rape, how many times were you raped, more or less?

A I was raped so many times.

Q Ten?

A More than 10 times.

Q And the last time that you were raped was July, 1994?

A Yes, your Honor.

"FISCAL REYES:

1994 there was no specific date.

"COURT:

Q Okey, is your father here?

A Yes, your Honor.

"COURT:

Q Will you point him out to this Court?

A That one wearing an orange t-shirt.

"COURT INTERPRETER:

Witness pointing to a person inside the Courtroom when asked for his name answered Oscar Escala.

"COURT:

Fiscal go ahead.

**"FISCAL
REYES:**

Q

From the time you were 12 years old up to July, 1994 do you remember if your father raped you about once a week or how often – how many times in one week did your father sexually abuse you?

"COURT

Witness said she can not recall.

**"FISCAL
REYES:**

Q

Well, if the question says how many time in one week?

A

Sometimes he raped me 3 times sometimes four times.

Q

And this lasted on July, 1994?

A

Yes, ma'am.

Q

From July 1994 up to the present, where did you stay?

A

I stayed in San Jose up to the present.

Q

And that was the date you transferred residence away from your father?

A

It was in August, 1994 when I transferred residence.

Q

Why did you transfer residence?

A

Because I do not want to be raped again by my father.

Q

Are still staying with your mother?

A

No more, I am staying in San Jose.

"COURT:

Let us first go to – where was this rape on July 1994 committed in your house in, where?

Q

In whose house in San Jose?

A

I am staying in the house of the father of my common-law husband.

**"FISCAL
REYES:**

Q

About this July 1994 you said that this was the last time you were raped by your father, do you remember how you were raped by your father?

"COURT

In our house at Sampaguita, Tacloban City.

A

**"FISCAL
REYES:**

Q

Do you remember what time was that when you